

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

RENEE L. MCCRAY

Plaintiff,

vs.

FEDERAL HOME LOAN
MORTGAGE CORPORATION, et al.

Defendants

BY KHO

Civil Action No.: GLR-13-CV-1518

PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff, Renee L. McCray hereby respectfully moves the Court for leave to file a Second Amended Complaint which is attached hereto, and says in support of this motion:

1. Plaintiff proposed Second Amended Complaint, which Plaintiff requests that the Court accept for filing, is attached hereto. A redlined copy of the Second Amended Complaint is attached.
2. In this Amended Complaint, Plaintiff has added Corporate Defendant Wells Fargo Home Mortgage, Inc. d/b/a America's Servicing Company. Plaintiff has withdrawn two of the original claims – Count II Maryland Fair Debt Collection Act (MCDCA) Md. Code Ann., Com Law § 14-201, et seq. and Count III Maryland Consumer Protection Act (MCPA) Md. Code Ann., Com. Law § 13-101, et seq. for all Defendants. Plaintiff has added additional allegations concerning the Defendants related to the claims originally asserted by the Plaintiff

in the opening complaint that have become known based upon continued investigation by the Plaintiff.

3. This Court recently summarized the appropriate standard of review for amended pleadings as follows:

Under FRCP 15(a)(2), leave to amend “shall be freely given when justice so requires.” *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962) (quoting FRCP 15(a)). Fourth Circuit case law directs that “[a] motion to amend should be denied only where it would be prejudicial, there has been bad faith, or the amendment would be futile.” *Noursion Rug Corp. v. Parvizian*, 535 F.3d 295, 298 (4th Cir. 2008). A review for futility is not equivalent to an evaluation of the underlying merits of the case. To the contrary, “[u]nless a proposed amendment may clearly be seen to be futile because of substantive or procedural considerations, ... conjecture about the merits of the litigation should not enter into the decision whether to all amendment.” *Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir. 1980), *cert. dismissed*, 448 U.S. 911, 101 S.Ct. 25, 65 L.Ed.2d 1141 (1980). “Leave to amend ... should only be denied on the ground of futility when the proposed amendment is clearly *insufficient or frivolous on its face*.” *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 510 (4th Cir. 1986) (emphasis added).

Next Generation Group, LLC v. Sylvan Learning Centers, LLC, CIV. CCB-11-0986, 2012 WL 37397 (D. Md. Jan. 5, 2012).

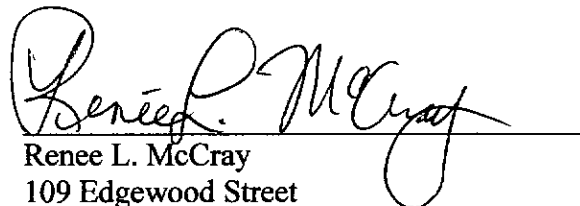
4. Plaintiff does not make these proposed amendments in bad faith; nor are Plaintiff’s claims futile. In fact, by the amendment, Plaintiff is not bringing any new claims but merely adding supporting factual allegations as demonstrated above in light of the Court of Appeal’s subsequent ruling on the specific Maryland law at issue in this case.
5. Plaintiff has conferred with counsel for the Defendants, Federal Home Mortgage Corporation and through counsel, Defendants is undecided to consent or not consent until the motion is filed. Plaintiff has conferred with counsel for the Defendants Samuel I. White, P.C. and

Substitute Trustees. Mr. Hillman stated he would get back to Plaintiff. Plaintiff have not communicated with Mr. Hillman since August 29, 2013.

WHEREFORE, Plaintiff now requests leave pursuant to FED. R. CIV.P. 15 to file her Second Amended Complaint.

Date: September 3, 2013

Respectfully Submitted,


Renee L. McCray
109 Edgewood Street
Baltimore, MD 21229
(410) 945-2424
rlmccray@yahoo.com

Defendants Counsel:

Michael S. Barranco
TREANOR POPE & HUGES, P.A.
500 York Road
Towson, MD 21204

Robert H. Hillman
Daniel J. Pesachowitz
611 Rockville Pike #100
Rockville MD 20852

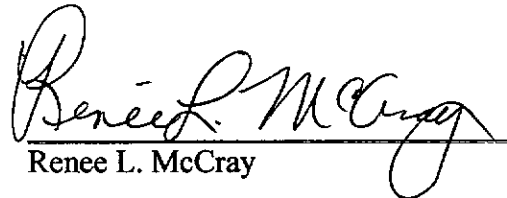
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Amended Complaint with a Redline copy of the Amended Complaint was sent to the following listed below by USPS First Class Mail (see attached USPS receipt).

Michael S. Barranco
TREANOR POPE & HUGES, P.A.
500 York Road
Towson, MD 21204

Robert H. Hillman
Daniel J. Pesachowitz
611 Rockville Pike #110
Rockville, MD 20852

Dated: September 3, 2013


Renee L. McCray

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